

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
EUGENE DISTRICT OFFICE**

**Lake Creek Drainage – Swamp Creek Sub-basin  
Aquatic and Riparian Habitat  
Restoration Plan**

**Finding of No Significant Impact  
DOI-BLM-OR-E050-2009-0001**

**Background**

The Bureau of Land Management has prepared an Environmental Assessment (EA) (DOI-BLM-OR-E050-2009-0001) which has analyzed the effects of aquatic restoration work on Swamp Creek located at T. 15 S., R. 7 W., Sections 31 and 32; T. 16 S., R. 8 W., Section 1; and T. 16 S., R. 7 W., Sections 5 and 6. The EA considers two alternatives: No Action and the Proposed Action.

**Finding of No Significant Impact**

On the basis of the information contained in the EA (DOI-BLM-OR-E050-2009-0001), and all other information available to me, it is my determination that the implementation of the proposed action is in conformance with the Eugene District's 2008 Record of Decision and Resource Management Plan (2008 ROD/RMP) and is also consistent with the Eugene District's 1995 Record of Decision and Resource Management Plan (1995 ROD/RMP). The analysis supporting this determination tiers to the 2008 Environmental Impact Statement and the implementation of the Proposed Action will not have significant environmental impacts beyond those already addressed in the environmental impact statement prepared for the 2008 ROD/RMP. The proposed action does not constitute a major federal action having significant effects on the human environment; therefore, an environmental impact statement will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

**Context**

The proposed action would occur within the Riparian Reserve land use allocations, designated as such by the 1995 Eugene District ROD/RMP. Coho salmon (*Oncorhynchus kisutch*) within the watershed are part of the Oregon Coast coho salmon Evolutionary Significant Unit and are listed as threatened under the Endangered Species Act. Habitat degradation has been identified as a factor of decline and a limiting factor that continues to threaten the Oregon Coast coho salmon population. Currently Swamp Creek is in a degraded condition and has drawn attention from adjacent land owners and watershed councils as having the potential to support fish populations if conditions improve. Because the project is being implemented both on BLM land and private property this is regarded as a cooperative effort by several interested groups and individuals. Although local short term adverse impacts exist, the long term benefit of increased available habitat and improved stream conditions for spawning fish would benefit fish populations in the whole watershed.

**Intensity**

I have considered the potential intensity/severity of the impacts anticipated from the Swamp Creek Aquatic Restoration Project relative to each of the areas identified in the CEQ regulations. With regards to each:

- 1. Impacts that may be both beneficial and adverse.** The EA considered both potential beneficial and adverse effects. None of the effects are beyond the range of effects analyzed in the Eugene District 2008 Final Environmental Impact Statement to which this EA is tiered. Adverse effects to fish would be short-term and would occur during and shortly after construction. The effects are discussed in detail on page 9 of the EA. The beneficial effects of the project are analyzed on page 10 of the EA.

2. **The degree to which the proposed action affects public health and safety.** No aspect of the proposed action would have an effect on public health and safety.
3. **Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** There are no parks, prime farmlands, or wild and scenic rivers in the project area. There are no known historic or cultural resources in close proximity to the project site. The archaeologist's report states the area as being low for cultural site sensitivity.
4. **Degree to which effects are likely to be highly controversial.** Aquatic restoration projects such as these have been carried out several times in past years. No unique or appreciable scientific controversy has been identified regarding the effects of the proposed action.
5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** The analysis has not shown that there would be any unique or unknown risks to the human environment not previously considered and analyzed in the EIS to which this determination is tied. Aquatic restoration has occurred on the Eugene District for a number of years and has been conducted in a manner that avoids unique or unknown risks. The use of Best Management Practices incorporated in the project design features substantially improves our capability to lessen impacts to the human environment.
6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** This project does not represent a decision in principle about future actions.
7. **Whether the action is related to other action with individually insignificant but cumulatively significant impacts.** The EA did not reveal any cumulative effects beyond those already analyzed in the EIS which accompanied the 2008 Eugene District ROD/RMP.
8. **The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing the National Register of Historic Places or may cause loss or destruction of scientific, cultural, or historic resources.** There are no features within the planning area that are listed or eligible for listing in the National Register of Historic Places. The project is not expected to cause loss or destruction of scientific, cultural or historic resources.
9. **The degree to which the action may adversely affect an endangered or threatened species or its habitat has been determined to be critical under the Endangered Species Act (ESA) of 1973.** Marbled Murrelets are a threatened species. Because the action areas are within the disruption distance (100 yards) of unsurveyed suitable marbled murrelet habitat, operations utilizing heavy machinery, chainsaws or other power equipment may not begin until two hours after sunrise and must cease two hours prior to sunset between April 1 and September 15. The effects determinations due to these timing restrictions are "may affect, but would not likely to adversely affect" marbled murrelets from disturbance (EA page 11). The proposed action would have No Effect to the marbled murrelet due to habitat modification. The proposed action would have no effect on spotted owls (threatened species) (EA page 11).

Coho salmon are present in the stream channel where restoration is to take place. Coho salmon are currently listed as threatened. Culvert replacement with a new passage structure and stream restoration will cause a transient increase in sediment. Adverse effects to fish would be short-term and would occur during and shortly after construction. The ESA effects determination is Likely to Adversely Affect coho salmon due to this short term impact. However the impacts would not be significant because the action is scheduled to occur during the dry time of year when coho salmon are not spawning in the stream channel. Adverse impacts would be limited to resident fish and juveniles however direct mortality of fish would not occur as a result of the proposed action since increase in turbidity and fine sediment would not be elevated to lethal levels. The short duration of the effects and limited increase in turbidity would not be detrimental to coho salmon (EA page 9). Stream flows would be at their lowest at the dry time of year so that sediment would not be transported a long distance downstream. The restoration action has long term benefits such as improving and increasing spawning and rearing habitat available for coho salmon and other aquatic

species. Section 7 consultation has been completed with National Marine Fisheries Services under the Biological Opinion for Fish Habitat Restoration Activities in Oregon and Washington issued on June 27, 2008.

**10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.** The proposed action does not threaten to violate any law. The project will adhere to ODEQ standards (EA page 8 and 9).

/s/ William Hatton  
Field Manager  
Siuslaw Resource Area

June 9, 2009  
Date

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**Decision Record  
DOI-BLM-OR-E050-2009-0001**

**DECISION**

It is my decision to implement the proposed action as described in the Swamp Creek Environmental Assessment (DOI-BLM-OR-E050-2009-0001). This aquatic restoration project is located in the Central Oregon Coast Range at T. 15 S., R. 7 W., Sections 31 and 32; T. 16 S., R. 8 W., Section 1; and T. 16 S., R. 7 W., Sections 5 and 6 within riparian reserve land use allocations. Implementation of this project will result in improved fish habitat due to culvert replacements, an increase in stream complexity by placing large wood and boulders the stream channel, decommissioning of short stretches of road that are delivering sediment to the stream channel, fencing off the stream to cattle entry and planting native trees in the riparian area.

Consultation with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) has been completed. The Environmental Assessment (EA) analyzed the proposed action and the Finding of No Significant Impact (FONSI) documented that there would be no significant impacts.

This decision is in conformance with the 2008 Eugene District Record of Decision and Resource Management Plan (2008 ROD/RMP) and is also consistent with the 1995 Eugene District Record of Decision and Resource Management Plan and will not have significant environmental impacts beyond those already addressed in the environmental impact statement prepared for the 2008 ROD/RMP.

**CONSULTATION AND COORDINATION**

**Public Scoping and Review**

The Environmental Assessment (DOI-BLM-OR-E050-2009-0001) was released for 30-day public comment period on April 29, 2009. The document was mailed to 41 individuals, agencies and groups. No comments were received.

**National Marine Fisheries Service (NMFS)**

Pursuant to the Endangered Species Act, consultation was completed with the National Marine Fisheries Service, which concurred that the action may affect, and is likely to adversely affect Oregon coast coho salmon. A Biological Opinion for the action was issued in June 2008.

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) requires Federal agencies to consult with the Secretary of Commerce regarding any action or proposed action authorized, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH) under the Act. The proposed action “may adversely affect” essential fish habitat for Oregon coast coho salmon. Consultation has been completed with the National Marine Fisheries Service and a Biological Opinion was issued in June 2008.

**U.S. Fish and Wildlife Service (USFWS)**

Pursuant to the Endangered Species Act, consultation was completed with the U.S. Fish and Wildlife Service, which concurred that the action is not likely to adversely affect marbled murrelets due to disturbance. A letter of concurrence was issued in June 2007.

**Confederated Tribes of the Grande Ronde, Siletz, Coos, Lower Umpqua, and Siuslaw Indians**

The Confederated Tribes of the Grande Ronde, Siletz, Coos, Lower Umpqua, and Siuslaw Indians were notified of this project during the comment period, requesting information regarding tribal issues or concerns relative to the project. No response was received.

**ADMINISTRATIVE REVIEW OPPORTUNITIES**

The effective date of this decision shall be the date of publication of the Notice of Decision and FONSI in the Register Guard (June 10, 2009). Any person adversely affected by this decision may appeal it to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, a notice of appeal must be filed at the physical address of the Eugene District BLM office within 30 days from the date of this decision. In an appeal the appellant has the burden of showing that the decision is in error.

If, pursuant to 43 CFR 4.21, an appellant wishes to file a petition (request) to stay (suspension) this decision during the time that an appeal is being reviewed by the IBLA, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision, to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If a stay is requested, the applicant has the burden of proof to demonstrate that a stay should be granted. Except as otherwise provided by law or other pertinent regulations, a petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

/s/ William E. Hatton

Field Manager  
Siuslaw Resource Area

June 9, 2009

Date